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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,239	10/17/2003	Raymond R. Price	A45-015-01-US	2470
22854 7590 06/09/2009 Moore & Hansen, PLLP 225 South Sixth Street Suite 4850 Minneapolis, MN 55402				
EXAMINER				
NGUYEN, CHI Q				
ART UNIT		PAPER NUMBER		
3635				
MAIL DATE		DELIVERY MODE		
06/09/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/688,239

**Applicant(s)**

PRICE, RAYMOND R.

**Examiner**

CHI Q. NGUYEN

**Art Unit**

3635

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 23-30 and 33-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-22, 31 and 32 is/are rejected.
- 7) ☒ Claim(s) 6 and 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of group I (claims 1-22 and 31-32) in the reply filed on 4/8/2009 is acknowledged.

### ***Status of Claims***

Claims 1-22 and 31-32 are pending.

Claims 23-30 and 33-35 are drawn to non-elected claims are being withdrawn.

### ***Claim Objections***

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 31 been renumbered 32.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 8-22 and 31-32 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pat. No. 6,715,965 to Manthei et al.

Claim 1:

Manthei et al. disclose in Figs. 8-9, a brick 60 suitable for use in constructing a mortarless wall, the brick comprising: a front surface 61; a rear surface 64; opposing sides 62/63 having surfaces extending between the front and rear surfaces; a top surface 66 extending between the front, rear, and opposing sides, the top surface comprising a first channel 69; and, a bottom surface 65 extending between the front, rear, and opposed side surfaces, the bottom surface in opposing relation to the top surface, the bottom surface comprising a second channel 68 and a projection 70, with the projection located between the front and rear surfaces, and with the projection configured and arranged to extend from the bottom surface and be received within a channel of an adjacent brick in an interlocking relation.

Claim 2:

Wherein the first channel 69 extends substantially along the top surface 66.

Claim 3:

Wherein the second channel 68 extends substantially along the bottom surface 65.

Claim 4:

Wherein the first and second channels 69/68 are in substantial vertical alignment with each other.

Claim 5:

Wherein one of the opposing side surfaces 62/63 comprises a third channel (not labeled but shown in Fig. 8), wherein the third channel extends substantially along the one opposing side surface.

Claim 8:

Wherein the projection 70 is in substantial linear alignment with the second channel.

Claim 9:

Wherein the projection 70 is in substantial coplanar alignment with the first channel.

Claim 10:

Wherein the front 61 and rear 64 surfaces have different textures (see Figs. 8-9).

Claim 11:

Wherein the front surface 61 has a roughened texture (see Figs. 8-9).

Claim 12:

Wherein the front surface 61 is generally planar and comprises at least one marginal area, wherein the marginal area is angled at 67 with respect to the front surface.

Claim 13:

Wherein the marginal area is configured to receive and retain filler.

Claim 14:

Wherein the rear surface 64 is generally planar and comprises at least one marginal area, wherein the marginal area is angled (see Fig. 8) with respect to the front surface.

Claim 15:

Wherein the marginal area is configured to receive and retain filler.

Claim 16:

Manthei et al. disclose in Figs. 8-9, a brick 60 suitable for use in constructing a mortarless wall, the brick comprising: a front surface 61; a rear surface 64; opposing side surfaces 62/63 extending between the front and rear surfaces; a top surface 66 extending between the front surface, the rear surface, and the opposing side surfaces; a bottom surface 65 extending between the front surface, the rear surface, and the opposed side surfaces, the bottom surface in opposing relation to the top surface; wherein one of the top, bottom, or opposing side surfaces further comprises a first channel 69; wherein another one of the top, bottom, or opposing side surfaces further comprises a second channel 68; and, wherein one of the top or bottom surfaces further comprises a projection 70, with the projection located between the front and rear surfaces, and with the projection 70 extending away from the bottom surface in a generally perpendicular direction, the projection configured and arranged to be received within a channel of an adjacent block in an interlocking relation.

Claim 17:

Wherein the first channel 68/69 and the second channel are substantially parallel with respect to each other.

Claim 18:

Wherein the first channel 69 and the second channel 68 are substantially perpendicular with respect to each other.

Claim 19:

Wherein the projection 70 is substantially rectilinear.

Claim 20:

Wherein the projection 70 and one of said first and second channels are on one of the top, bottom, or opposing sides.

Claim 21:

Wherein the surface having the projection 70 thereon is the bottom surface 65, and the surfaces having the first and second channels are the top and one of the sides, respectively.

Claim 22:

Wherein one of said opposing top, bottom, or sides further comprises a third channel (see Fig. 8).

Claim 31:

Wherein the top surface 66 is substantially contiguous.

Claim 32:

Wherein the bottom surface 65 is substantially contiguous.

#### ***Allowable Subject Matter***

Claims 6-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-5, 8-22 and 31-32 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you



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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

/C. Q. N./  
Examiner, Art Unit 3635

/Richard E. Chilcot, Jr./  
Supervisory Patent Examiner, Art Unit 3635